

1 David L. Aronoff (State Bar No. 152606)
daronoff@winston.com
2 Gayle I. Jenkins (State Bar No. 168962)
gjenkins@winston.com
3 WINSTON & STRAWN LLP
4 333 S. Grand Avenue, 38th Floor
Los Angeles, CA 90071-1543
5 Telephone: (213) 615-1700
Facsimile: (213) 615-1750

6 Attorneys for Plaintiff,
7 COR CLEARING, LLC

8
9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**

11 COR CLEARING, LLC, a limited
12 liability company,

13 Plaintiff,

14
15 vs.

16 LAURA B. LOBUE, an individual,

17 Defendant.
18
19
20
21

Case No. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

1 **COMPLAINT**

2
3 Plaintiff COR Clearing, LLC (“Plaintiff” or “COR Clearing”), by its attorneys,
4 for its Complaint against Defendant Laura B. LoBue (“Defendant”), alleges as
5 follows:
6

7 **NATURE OF THIS ACTION**

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9 1. Plaintiff is a national securities clearing firm that provides clearing
10 and administrative services to its customers. Plaintiff seeks declaratory relief and
11 preliminary and permanent injunctions to preclude Defendant from pursuing an
12 arbitration proceeding she has improperly filed against Plaintiff before the Financial
13 Industry Regulatory Authority (“FINRA”) styled *Laura B. LoBue v. Ameritas*
14 *Investment Corp., COR Clearing, LLC and Merrill Lynch, Pierce, Fenner & Smith,*
15 *Inc.*, FINRA Case No. 16-01074 (the “Arbitration”).

16 2. Defendant should be enjoined from pursuing the Arbitration as
17 there is no agreement to arbitrate between Plaintiff and Defendant. Defendant is not,
18 and has never been, a customer of Plaintiff, and therefore Defendant has no basis to
19 bring an arbitration proceeding before FINRA against Plaintiff.
20

21 **PARTIES**

22
23 3. At all times alleged herein, Plaintiff COR Clearing, LLC is a
24 Delaware limited liability company, with its principal place of business in Omaha,
25 Nebraska. Plaintiff is a member of FINRA and a national clearing firm that does
26 business with independent brokers across the country, including California. At all
27
28

1 times pertinent herein, Plaintiff also operated an equity trade execution desk that
2 transacted only unsolicited trade orders on behalf of clients.

3 4. Plaintiff is informed and believes that Defendant Laura B. LoBue
4 is and was a resident of the County of Riverside, State of California.

5
6 **JURISDICTION**
7

8 5. This Court has original subject matter jurisdiction of this action
9 pursuant to 28 U.S.C. § 1331 because this action arises under the Federal Arbitration
10 Act, 9 U.S.C. § 4.

11 6. Jurisdiction is also proper pursuant to 28 U.S.C. § 1332 because
12 Plaintiff and Defendant are citizens of different states and the amount in controversy
13 exceeds \$75,000, exclusive of interests and costs. If forced to arbitrate claims that
14 Plaintiff did not agree to arbitrate before FINRA, Plaintiff will incur significant legal
15 fees and expenses in connection with defending itself against Defendant's claims, who
16 seeks to recover losses totaling \$900,000.

17
18 **VENUE**
19

20 7. Venue is proper in this Court under 28 U.S.C. §§ 1391(a) and (c)
21 because a substantial part of the events and omissions giving rise to the claim occurred
22 in this district. Defendant brought the Arbitration in FINRA's West Regional Office,
23 which is located in Los Angeles, California.

FACTUAL BACKGROUND

The Arbitration

8. On or about April 14, 2016, Defendant initiated the Arbitration with FINRA against Plaintiff and two other parties (Merrill Lynch, Pierce, Fenner & Smith, Inc. (“Merrill Lynch”) and Ameritas Investment Corp. (“Ameritas”). COR Clearing was served with the Statement of Claim on April 29, 2016. COR Clearing’s answer is due on June 15, 2016.

9. The Arbitration was initiated at, and is being administrated through, FINRA’s office in Los Angeles, California.

10. In the Statement of Claim, Defendant complains of trades made in her Merrill Lynch account by Defendant’s investment advisor, Abida Khan, while Khan was still licensed with Ameritas. Defendant admits to having met with Edward Durante while he was operating under the name “Ted Wise, who is a recidivist securities law violator and barred from the securities industry and is thwarting the government’s efforts to collect restitution relating to his prior conduct.

11. Defendant claims to have lost \$900,000 from her investments handled by Khan. The Statement of Claim does not contain any allegations that Defendant was a customer of Plaintiff, nor do Plaintiff’s records reflect that it ever had a customer by the name of Laura LoBue.

12. In the Arbitration, Defendant seeks to hold COR Clearing responsible for her alleged losses despite the fact that the Statement of Claim does not contain any allegations that Defendant was a customer of COR or that COR Clearing had anything to do with Plaintiff’s investments. Rather, Defendant appears to allege “negligence” against Plaintiff based on a tenuous theory that trading of VGTel stock by others at COR Clearing affected Defendant’s investment.

1 13. COR Clearing did not sign a written contract or customer
2 agreement with Defendant. This is because Defendant did not have, and have never
3 had, any accounts at COR Clearing, LLC.

4
5 **COR Clearing Has No Agreement or Obligation to Arbitrate with Defendants**

6 14. Defendant has no right to bring this Arbitration against COR
7 Clearing under the FINRA Arbitration Code, which requires FINRA members to only
8 arbitrate certain disputes. In the absence of a written arbitration agreement, FINRA
9 Rule 12200 only requires members to arbitrate claims if the arbitration is requested by
10 a “customer,” the dispute is “between a customer and a member or associated person
11 of a member,” **and** the “dispute arises in connection with the business activities of the
12 member of the associated period.” Defendant does not qualify as a “customer” under
13 FINRA Rule 12220 because she never had any accounts with Plaintiff.

14
15 **First Claim for Relief – Declaratory Judgment**

16 **(By Plaintiff Against Defendant)**

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18 15. Plaintiff realleges and incorporates by reference the foregoing
19 paragraphs as though fully set forth herein.

20 16. No agreement to arbitrate exists between COR Clearing and any
21 Defendant.

22 17. Defendant seeks arbitration based on Rule 12200 of the FINRA
23 Code of Arbitration by submitting her dispute to FINRA’s Dispute Resolution system.
24 However, in the absence of an agreement to arbitrate, Rule 12200 only requires
25 arbitration if the arbitration is requested by a “customer,” the dispute is “between a
26 customer and a member or associated person of a member,” **and** the “dispute arises in
27 connection with the business activities of the member of the associated period.”

1 18. Defendant is not now and has never been a “customer” of COR
2 Clearing.

3 19. Accordingly, COR Clearing lacks any obligation to arbitrate any
4 claims brought by Defendant.

5 20. Declaratory relief is appropriate because the dispute between the
6 parties is definite and concrete, affecting the parties’ adverse legal interests with
7 immediacy.

8 21. COR Clearing therefore, requests a declaratory judgment from this
9 Court that COR Clearing has no obligation to arbitrate Defendant’s claims pursuant to
10 Rule 57 of the Federal Rules of Civil Procedure and 28 U.S.C. § 2201.

11
12 **Second Claim for Relief – Injunctive Relief**

13 **(By Plaintiff Against Defendant)**
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15 22. Plaintiff realleges and incorporates by reference the foregoing
16 paragraphs as though fully set forth herein.

17 23. COR Clearing will suffer immediate and irreparable harm if it is
18 compelled to arbitrate claims that it did not agree to arbitrate.

19 24. COR Clearing has a likelihood of success on the merits. COR
20 Clearing has no obligation to arbitrate with Defendant based on the claim asserted
21 against Plaintiff in the FINRA Arbitration. There is no applicable agreement to
22 arbitrate between COR Clearing and Defendant. Defendant is not a “customer” of
23 COR Clearing as required by FINRA Rule 12200.

24 25. COR Clearing has no adequate remedy at law.

25 26. COR Clearing is entitled to preliminary and permanent injunctive
26 relief enjoining Defendant from further proceedings against COR in the arbitration.
27

PRAYER FOR RELIEF

WHEREFORE, Plaintiff COR Clearing demands judgment as follows:

A. Entry of a declaratory judgment that COR Clearing has no obligation to arbitrate the claims asserted by Defendant in the FINRA Arbitration;

B. Entry of orders preliminarily and permanently enjoining Defendant from further proceedings against COR Clearing in the FINRA Arbitration; and

C. Granting COR Clearing any other and further relief as the Court may deem just and proper.

Respectfully submitted,

WINSTON & STRAWN LLP

Dated: May 4, 2016

By: /s/ Gayle I. Jenkins

David L. Aronoff
Gayle I. Jenkins

Attorneys for Plaintiff COR Clearing, LLC